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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,169

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Andreas Hayden

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EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

06/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/786,169

**Applicant(s)**

HAYDEN, ANDREAS

**Examiner**

TUAN C. TO

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-13, 15-18, 20 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-13, 15-18, 20 and 27-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-13, 15, 27-29, 32, 33, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 8, 28, and 32, the applicant recites "vehicle type" which renders the claim indefinite because it was unclear what "type" was intended to convey. The interpretation was made more difficult by the fact that the zeolites defined in the dependent claims were not within the genus of the type of zeolites defined in the independent claim. Ex parte Attig, 7 USPQ2d 1092 (Bd. Pat. App. & Inter. 1986) (see MPEP 2173.05).

Claims 9-13, 15, 27, 29, 33, and 35 are rejected for the same reason.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 8, 16, 35, and 36 are rejected under 35 U.S.C. 102 (b) as being anticipated by Ishiguro et al. (US 5949375A).

Regarding claim 8, Ishiguro et al. teaches a navigation system/method in which the program instructions are read out of a data carrier which is the CD-ROM, a ROM, a DVD, a floppy disk or the like (Ishiguro et al., figure 1; column 10, lines 4-10, programs instructions stored in the data carrier such as CD-ROM, DVD are read out by the present calculating apparatus 4); causing the system controller (4) (see figure 1) stores in the memory RAM (8) various data including route data, the ROM (7) stores control programs); accessing, by the storing or updating system, vehicle characterizing data (see figure 1, column 13, lines 29-47, the vehicle position data is accessed via the GPS receiver 3); the data stored on the data carrier such as CD-ROM, DVD, has been read out, wherein the stored data includes map data, control programs, etc (Ishiguro et al., column 12, lines 25-34).

Regarding claim 16, Ishiguro et al. teaches a method of inputting control unit data into a control unit in a vehicle comprising: reading by a reader unit, the control unit data out of a data carrier (Ishiguro et al., figure 1; column 10, lines 4-10, programs instructions stored in the data carrier such as CD-ROM, DVD are read out by the present calculating apparatus 4), communicating the program instructions to the unit (4) via the data bus (9), storing the program instructions in a memory associated with the unit (4) (Ishiguro et al., figure 1, ROM 7, RAM 8). It is noted that the program instructions disclosed in Ishiguro et al. is a computer program instructions therefore they should be program code for sequence control.

Ishiguro et al. further teaches that data carrier contains control unit data (program instructions) applicable to a plurality of vehicles, and said act of reading is controlled by a microprocessor which reads vehicle characterizing information from a memory, and causes said reader unit to read from said carrier, only control unit data that are applicable to particular vehicle control units (Ishiguro et al., figure 1, the program instructions stored in the data carrier CD-ROM or DVD is read out via the CD-ROM drive (11) and are processed by the computer (4), and that the computer (4) coupled to ROM and RAM from which the vehicle characterizing data is read out).

As to claim 35, Ishiguro et al. discloses that the data carrier DK includes navigation data (see column 12, lines 25-34).

As to claim 36, Ishiguro et al. further discloses storing and/or updating instructions for storing or updating sequence control in the microprocessor (see column 12, lines 25-34, the control program for storing or updating sequence control is also stored as well as the navigation data on the DK).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishiguro et al. (US 5949375A), Moriguchi et al. (US 20020007238A1), and further in view of Brody (US 20010051928A1).

Ishiguro et al and Moriguchi et al. fail to disclose the limitation of "the control unit data stored on the data carrier is encrypted, the control unit data is protected against falsification". Brody teaches that the software stored on the data carrier such as CD-ROM is encrypted, the software is protected against falsification (Brody, paragraph 0013).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system/method as taught by Ishiguro et al. and Moriguchi et al. to include the teachings of Brody in order to protect the software from unauthorized copying and distribution.

Claims 30-34, 15, 17, 18, 20, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishiguro et al. (US 5949375A), and in view of Moriguchi et al. (US 20020007238A1).

Regarding claims 30-34, and 15, Ishiguro et al. teaches A method of inputting control unit data into a control unit in a vehicle, said method comprising the acts of: receiving, by a reader unit of a system on-board of the vehicle (figure 1, CD-ROM drive 11), a data carrier (figure 1, CD-ROM DK), wherein the data carrier includes control unit data applicable to a plurality of vehicles and storing or updating instructions for

controlling storing or updating of a control unit by a microprocessor (figure 1, column 12, lines 25-34, the CD-ROM includes map data applied for a plurality of vehicle, and control programs for controlling storing or updating of the system controller 4); reading, by the reader unit (11), the storing or updating instructions and control unit data applicable to one of the plurality of vehicles (figure 1); and storing, by the microprocessor based on the storing instructions, the control unit data in a memory of the control unit, or updating, by the microprocessor based on the updating instructions, the control unit data in the memory of the control unit (column 12, lines 25-34, the data stored on the data carrier such as CD-ROM, DVD, has been read out, wherein the stored data includes map data, control programs, etc).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Ishiguro et al. merely fails to teach that the control unit data applicable to a plurality of control units that performs different vehicle-related control functions.

Moriguchi et al. discloses a vehicle system/method in which the storage medium (111) can be inserted or removed to and from the storage medium interface (112). The storage medium (111) includes control unit data which is the setting information A, C, etc applicable to a plurality of control units (12a-12c) that perform different vehicle-related control functions (see figure 1; paragraph 0090).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system/method as taught by Ishiguro et al. to include

the teachings of Moriguchi to gain advantage of controlling a variety of vehicle settings of the vehicle subsystems which are all connected to the vehicle network.

As to claim 27, Ishiguro et al. teaches that the control unit (4) is coupled to ROM that stores a control program for control the performance of the navigation system.

As to claim 17, Ishiguro et al. teaches the on-board navigation system (Ishiguro et al., abstract).

As to claim 18, Ishiguro et al. teaches that data carrier comprises CD-ROM, DVD.

As to claim 20, Ishiguro et al. further teaches: "characterizing information is stored in a memory maintained by a manufacturer of the vehicle (Ishiguro et al., column 12, lines 41-47, the ROM (7) is a volatile memory originally stores control program which is originally maintained by a manufacturer of the vehicle).

As to claim 28, Ishiguro et al. further teaches "the vehicle characterizing data characterizes a particular vehicle or vehicle type" (see column 12, lines 25-34, CD-ROM drive access the vehicle map data by reading the data stored on the CD-ROM disk DK).

As to claim 29, Ishiguro et al. discloses that the control unit (4) is coupled to ROM that stores a control program for control the performance of the navigation system.

### ***Response to Arguments***

The applicant's request for continued examination filed on 04/10/2008 has been fully considered. However, the claims listed would not be patentable over the cited prior art. A new rejection has been set in response to the applicant's amendment. The



reference to Ishiguro et al. is still applicable to the claims because the teaching of Ishiguro et al., which has been discovered as being combined with Moriguchi et al., suggests the limitation of the claims.

### ***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Acting Examiner of Art Unit 3663/3600

April 23, 2008

